# BEFORE THE DIVISION OF OIL, GAS AND MINING DEPARTMENT OF NATURAL RESOURCES STATE OF UTAH

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IN THE MATTER OF THE LILA

CANYON EXTENSION TO THE HORSECANYON MINE,

CARBON AND EMERY COUNTIES,

**UTAH** 

: INFORMAL CONFERENCE

FINDINGS, CONCLUSIONS

AND ORDER

CAUSE NO. C/007/013

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On May 21, 2002, the Division of Oil, Gas and Mining ("Division") held an informal conference concerning Utah American Energy Inc's (UEI's) application for a new Coal Mining and Reclamation Permit (MRP) for the Lila Canyon Extension to the Horse Canyon Mine, Carbon and Emery Counties, Utah. The request for an informal conference was made by Southern Utah Wilderness Alliance (SUWA) by Fax to the Division, April 22, 2002. The following individuals attended:

Presiding: Lowell P. Braxton

Director

Division of Oil, Gas and Mining

Petitioner: W. Herb McHarg and Eliot W. Lipps

For Southern Utah Wilderness Alliance

Applicant: Denise Dragoo and Jay Marshall

For Utah American Energy Inc.

At the Informal conference SUWA provided information relative to a 94 page critique of the Lila Canyon permit application package (PAP) as it appeared at the time of the Division's administrative completeness determination, and SUWA supplemented this written critique based on their review of public records, and on the basis of information gained at a meeting held with Division representatives and the applicant the morning of May 21 2002. The applicant submitted and subsequently discussed a 2 volume written critique of SUWA's above-referenced 94 page submittal, and addressed other information presented at the informal conference.

SUWA's documents and those submitted by the applicant (referenced in the preceding paragraph) were accepted by the conference officer as part of the record created at the informal conference. A transcript of the conference was made by Scott M. Knight, RPR (Thacker &Company LLC).

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner and Applicant in connection with this informal conference, and on information in the files of the Division.

#### FINDINGS OF FACT

- 1. The administrative completeness determination for the subject permit was made by the Division February 25, 2002, and public comment opportunities for this decision closed April 22, 2002.
- 2. By letter (Fax) dated April 22, 2002, SUWA requested an informal conference to discuss issues of concern regarding the Utah Division of Oil, Gas and Mining's determination of Administrative Completeness for the subject permit application package.
- 3. Notice of the informal conference was properly given.
- 4. Prior to the conference, Lowell Braxton discussed with each party an agenda and timeline for conduct of the conference.
- 5. Neither party to the conference objected to the agenda.
- 6. Pursuant to Utah Code Ann. Section 40-10-13 and Utah Administrative Rule R645-300-123, an informal conference in the matter was held on May 21, 2002.
- 7. A list of those attending the informal conference will be maintained in the conference file.

### **CONCLUSIONS OF LAW**

- 1. Utah Administrative Rule R645-300-123.100 considers and grants affected parties an opportunity to request an informal conference on the application for a new permit.
- 2. Utah Administrative Rule R645-300-120 et sec. contemplates public participation and comment on a PAP at the time an administrative completeness determination is published.
- 3. SUWA's request for an informal conference in this matter was filed in a timely, appropriate manner.
- 4. Notice of the informal conference was properly given.
- 5. Participants at the conference were provided the opportunity provide comment on the application for the Lila Canyon Extension to the Horse Canyon Mine in the manner anticipated by R645-300-123.

## **ORDER**

### NOW THEREFORE, it is ordered that:

- I The materials submitted by the participants at the informal conference and the record created at this conference shall be reviewed and considered by the Division in the normal course of its ongoing review of the new permit for the Lila Canyon Extension of the Horse Canyon Mine.
- II The record which was generated during the informal conference shall be maintained, and shall be accessible to the parties until final release of the applicant's performance bond, should the Lila Canyon extension of the Horse Canyon be permitted.

III When written, the Division's determination of Technical Adequacy (the TA) shall identify SUWA's requests for changes to the PAP that are part of the conference record, but while noting those requests that possibly exceed the Division's programmatic mandate. Where appropriate, the TA shall describe the Division's basis for not incorporating SUWA's materials or requests into the PAP.

IV As anticipated at UCA 40-10-14 (1) and R645-100-800 by close of business July 22, 2002 the Division shall provide written notice to the applicant and SUWA of its decision to grant or deny the permit application in whole or in part, and provide its reason for the decision.

SO DETERMINED AND ORDERED this 18th day of \_\_\_\_\_\_\_, 2002

Lowell P. Braxton, Director

Division of Oil, Gas and Mining

State of Utah

vs

cc: Lowell Braxton

Mary Ann Wright Herb McHarg, SUWA Denise Dragoo, UEI

Jay Marshall, UEI

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### **CERTIFICATE OF MAILING**

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF INFORMAL CONFERENCE for Cause No. C/007/013 to be mailed by certified mail, postage prepaid, on the 18 day of June, 2002 the following:

Jay Marshall
UtahAmerican Energy, Inc.
P.O. Box 986
Price, Utah 84501

Denise Dragoo Snell & Wilmer Gateway Tower West 15 West South Temple, Suite 1200 Salt Lake City, Utah 84101

W. Herbert McHarg Southern Utah Wilderness Alliance Monticello Office P.O. Box 401 Monticello, Utah 84535

Kathy C. Weinberg, Esq. JENNER& BLOCK 1717 Main Street, Suite 3150 Dallas, TX 75201

Mary Ann Wright Division Oil, Gas & Mining 1594 West North Temple, Suite 1210 Salt Lake City, Utah 84114-5801

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cc: Daron Haddock
Pamela Grubaugh-Littig
Lowell Braxton
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